

REMARKSREJECTIONS UNDER 35 U.S.C. § 112

Claims 1-20, 25-33, 38-45 and 51-56 were rejected under 35 U.S.C. § 112 for alleged lack of enablement. Applicants respectfully traverse this rejection.

It is the Office's position that

[n]either the specification nor the claims teach or provide a means through which to determine the variable "T" in $t = t_0 + T (+/- 25\% T)$. The claims and specification never discuss determining "T" or providing a value for "T." Without knowing "t" one could not calculate "T." Without "T" one would not know the asynchrony of development between two embryos to determine when after fertilization an embryo should be transferred to the uterus of a recipient female.

Office Action, page 2.

Contrary to the Office's position, both the specification and the claims teach how to determine T, t_0 , and t. For example, in claim 1, parts (a)(i) and (a)(ii), the first and second embryos are produced by crossing a male and female at time t_0 . Thus, t_0 is defined as the time that both males and both females are crossed to produce an embryo. As stated in the specification, "embryos of the same age is understood to define that the embryos were conceived simultaneously or at the same time." Specification, page 4, paragraph 15. Thus, t_0 refers to the time of conception.

"T", as defined in the specification and claims, is the synchrony of development between two embryos of the same species and of the same age. According to the claims, T is determined at, on or before the day of uterine implantation of the second embryo.

Finally, "t" is mathematically calculated by the formula $t_0 + T (+/- 25\% T)$.

Regarding the remaining bases for the lack of enablement rejection, Applicants have amended the claims as suggested by the Examiner. Applicants believe that all grounds of lack of enablement have been overcome. Accordingly, withdrawal of this rejection is respectfully requested.

REJECTIONS UNDER 35 U.S.C. §§ 102 AND/OR 103

Claims 21-24 and 34-37 were rejected under 35 U.S.C. §§ 102 and 103. Applicants have cancelled these claims. Thus, this rejection is now moot. Applicants preserve the right to pursue the subject matter of such claims in another application.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 26, 2007

Respectfully submitted,

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